

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STATE OF MISSOURI

v.

CORNELLE D. WILLIAMS

RESPONDENT,

APPELLANT.

DOCKET NUMBER WD72556

DATE: April 17, 2012

Appeal From:

Platte County Circuit Court
The Honorable Abe Shafer IV, Judge

Appellate Judges:

Division Three: James E. Welsh, Presiding Judge, Cynthia L. Martin, Judge and Zel M. Fischer,
Special Judge

Attorneys:

Shaun J. Mackelprang and Richard A. Starnes, Jefferson City, MO, for respondent.

Michelle D. Carpenter and Lindsey C. Bachman, St. Joseph, MO and Susan L. Hogan, Kansas
City, MO, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
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STATE OF MISSOURI,

RESPONDENT,

v.

CORNELLE D. WILLIAMS,

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Platte County

Before Division Three: James E. Welsh, Presiding Judge, Cynthia L. Martin, Judge and Zel M. Fischer, Special Judge

Cornelle Williams appeals from his conviction of murder in the second degree, assault in the first degree, and two counts of armed criminal action. William had previously been convicted of the same offenses, but was awarded a new trial when it was determined in a Rule 29.15 proceeding that Williams's first trial counsel was ineffective in failing to establish Williams's indigence, and thus his right to an independent mental health expert to explore the possibility of a mental health defense negating criminal responsibility. On appeal, Williams complains that his testimony claiming self-defense during his first trial should not have been admitted in his second trial because it was effectively compelled by ineffective assistance of counsel which deprived him of the possibility of a mental health defense during his first trial. Williams also complains that references to his participation in a robbery were prejudicially admitted to show his propensity to commit the crimes with which he was charged.

Affirmed

Division Three holds:

(1) Generally, statements voluntarily made by a defendant in a former hearing or trial may be received against the defendant as his admissions, without violating the Fifth Amendment privilege against self incrimination.

(2) There is a limited exception to this rule where a defendant's testimony is effectively compelled because it was indispensably given to protect one constitutional right at the expense of the Fifth Amendment privilege.

(3) Williams's testimony during his first trial that he acted in self-defense was not indispensably given to protect Williams's Sixth Amendment right to effective assistance of counsel. In fact, Williams's silence during his first trial would have been as effective in protecting his Sixth Amendment right to effective assistance of counsel where that right was deprived due to counsel's pretrial failure to qualify Williams's as indigent for purposes of securing access to an independent mental health expert.

(4) Williams was not "forced" to testify that he acted in self-defense. There is no Fourteenth Amendment right to have available an absolute defense negating criminal responsibility.

(5) Williams's testimony during his first trial was of an exculpatory nature, and thus not prejudicial if presumed truthful. If Williams is suggesting that he was forced to manufacture an absolute defense during his first trial, and that he was prejudiced by being held to that testimony in his second trial, than Williams is advocating for an unrecognized constitutional right to suborn perjury.

(6) Williams's claim that his self-defense testimony was compelled during his first trial presumes that a mental health expert would have developed a mental health defense negating criminal responsibility. Williams conceded during his second trial that following consultation with a mental health expert, a mental health defense negating criminal responsibility was not available to him at the time of his offenses. Thus, notwithstanding ineffective assistance of counsel during his first trial, Williams would not have been in a position to assert a mental health defense during his first trial, and would have faced the same decision whether to testify that he acted in self-defense.

(7) Williams's motion for new trial did not adequately preserve the errors of constitutional proportion claimed on appeal.

(8) The trial court did not abuse its discretion in admitting Williams's testimony from his first trial in his second trial.

(9) The State's limited references to the fact that the person with Williams on the day of his crimes was, with Williams's knowledge, intending to rob the victim were admissible to show Williams's motive, and to demonstrate the circumstances or the sequence of events surrounding the offenses charged.

(10) Moreover, numerous similar references were made during trial to which Williams registered no objection, negating the prejudicial effect, if any, of the objected to references.

(11) The trial court did not abuse its discretion if admitting the State's references to Williams's knowledge that his companion intended to rob the victim.

Opinion by Cynthia L. Martin, Judge

April 17, 2012

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